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### **RULE 3.2 WITHDRAWAL OF APPEARANCE**

All withdrawals of appearances shall be in writing and by leave of Court. Permission to withdraw shall be given only after the withdrawing attorney has given his client ten (10) days written notice of his intention to withdraw and has filed a copy of such with the Court; or upon a simultaneous entering of appearance by new counsel for said client. The letter of withdrawal shall explain to the client that failure to secure new counsel may result in dismissal of the client's case or a default judgment may be entered against him, whichever is appropriate, and other pertinent information such as trial setting date or any other hearing date. The Court will not grant a request for withdrawal of appearance unless the same has been filed with the Court at least ten (10) days prior to trial date, except for good cause shown.

### **RULE 4.12 ATTACHMENT: SERVICE BY SHERIFF**

- A. Attachment-Duties of Sheriff.** Unless otherwise directed by the Judge, when a body attachment is signed by the Judge and taken to the Civil Sheriff's Office, the Civil Sheriffs Office will issue a letter to the party concerned requesting that he appear voluntarily at said office. If no response is made to this letter by the judgment defendant within thirty (30) days, the Civil Sheriff shall then execute said body attachment and bring the defendant into court during court hours.

If the Civil Sheriff is not successful in attaching the individual in question after sixty (60) more days, a total of ninety (90) days, he shall return the attachment to the appropriate court with a return that service cannot be made.

The plaintiff's attorney will be duly informed of the return of the attachment and he may then proceed to request that the Court place a bond upon the judgment defendant; such a bond may be fixed within the discretion of the Court if the Court finds that the defendant has actual knowledge of the attachment, is deliberately evading process of service, and such other matters as may convince the Court that a bond would be desirable under the circumstances and in the situation involved. If a new attachment is issued with bond fixed thereon, the Sheriff's Office will once again make an attempt to pick up the judgment defendant at the address indicated, and if picked up outside of court hours, he will be taken to the jail and required to post the amount of bond indicated to guarantee his appearance in court. Upon posting of the bond, he will be released with the admonition to appear in the appropriate court on the next court day during court hours. If, in an additional thirty (30) days, the Sheriff is again unable to obtain good service on the judgment defendant, the attachment will be returned to the appropriate court for disposition.

- B. Attachments-Hearings.** When a judgment defendant has been brought into court on a body attachment, a hearing will be conducted at the earliest convenience of the Court. Counsel for the plaintiff will respond to the telephone request by court personnel to appear at the hearing forthwith, and counsel will have deemed to consent to such notice to appear by requesting a body attachment. The hearing requires the presence of the attorney of record, and clerical or secretarial personnel shall not appear to interrogate the attached judgment defendant. Failure to respond promptly to such request may result in the discharge of the attached defendant or other appropriate measures by the Court.

## **RULE 5.1<sup>1</sup> REQUIREMENTS FOR MOTIONS**

**A. Notice.** When a motion requires notice, the serving of the copy of the motion upon the other parties in the cause shall constitute notice of filing; If the motion requires a hearing or oral argument, the Court shall set the time and place of hearing or argument on the motion. Except for initial motions made pursuant to subsection D herein, all motions filed with the court shall include a brief statement indicating whether opposing party(ies) object to or approve of the granting of said motion.

**B. Response.** If the statement regarding the position of the opposing party(ies) required under subsection A herein indicates that objection to the granting of said motion may ensue, said objecting party shall have fifteen (15) days from the date of filing to file a response to said motion.

**C. Oral Arguments on Motions and Other Pleadings.** When an oral argument is requested, the request shall be by separate instrument and filed with the pleading to be argued. Any such oral argument requested may be heard only at the discretion of the Court. This rule shall not apply to a hearing on Motion for Summary Judgment.

**D. Enlargement of Time.** Initial written motion for enlargement of time pursuant to Rule TR 6(B)(1) to respond to a claim shall be automatically allowed for an additional thirty (30) days from the original due date without a written order of the Court. Any motion filed pursuant to this rule shall state the date when such a response is due and the date to which time is enlarged. The motion must be filed on or before the original due date or this rule shall be inapplicable. All subsequent Motions shall be so designated and will be granted only for good cause shown.

**E. Tender of Orders.** All motions seeking an order of the Court shall be accompanied by a sufficient number of orders to be executed by the Court in granting said motion. In addition to the orders, the notice shall be accompanied by stamped, addressed envelopes to all parties of record.

### **Rule 16.3. Alternative Dispute Resolution.**

#### **A. Mediation Procedure**

- 1.. Case selection shall be governed by A.D.R. Rule 2.2.
2. Mediator selection shall be governed by A.D.R. Rule 2.4. Mediators approved by the Indiana Supreme Court Commission for Continuing Legal Education shall be entered into the Court's computer system. If the parties are unable to select a mediator by agreement pursuant to A.D.R. Rule 2.4, the Court will generate a list of three mediators by random selection through the computer.
3. The parties shall have ten (10) days to strike from the panel of mediators named by the Court. The party that initiated the cause of action shall strike first. If the parties fail to strike within ten (10) days, the Court shall select a mediator. Upon selection of the mediator, counsel for the party that initiated the litigation shall submit a proposed order appointing the mediator selected in the case.
4. During the entire mediation process, the lawsuit shall remain on the Court's docket.

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<sup>1</sup> Approved by General Term March 7, 2005 in compliance with TR 81(d)

5. Absent an agreement by the parties or unless otherwise ordered by the Court, the standard fee for mediation ordered by the Court shall be One Hundred and Twenty-Five Dollars (\$ 125.00) per hour, plus expenses and the fees and expenses associated with the mediation shall be shared equally by the parties unless good cause can be shown by a party why an equal division of the fees should not be ordered. In the case of team mediation, the fee is to be split between the mediators as the co-mediators are to be treated as a unit. A mediator may petition the Court for a higher fee predicated on the level of skill necessary to mediate the case, the complexity of the case, and the litigant's ability to pay.

6. The mediator and the parties shall make a good faith effort to complete the mediation process within sixty (60) days from the date of the Order to engage in mediation. In the event that the mediation process is not completed within this time, the mediator shall file a status report with the Court setting forth the projected date of completion.

7. Within twenty-four (24) hours prior to the scheduled mediation conference or such other time as the mediator declares, the parties shall submit to the mediator a Confidential Mediation Statement. Such statement shall include, without limitation, a brief recitation of: (a) the facts relevant to the dispute; (b) the amount in controversy or other relief requested; (c) the progress of the litigation to date; (d) the status of negotiations; and (e) the factors, including factual and legal contentions as to both liability and damages, which have been considered or relied upon in arriving at the current settlement posture.

8. All parties, attorneys with settlement authority, representatives with settlement authority, and other necessary individuals shall be present at each mediation conference to facilitate settlement of a dispute unless excused by the court or by stipulation of the parties.

9. After the conclusion of the mediation, the mediator will have fifteen (15) days to prepare and send his or her bill to the parties. The parties shall have fifteen (15) days thereafter to pay the mediator. If the mediator's bill is not paid within thirty (30) days after the close of mediation, the mediator may file a bill with the Court and it shall be reduced to judgment unless objected to by one of the parties within ten (10) days after the filing of the bill with the Court.

## **B. Arbitration Procedures**

1. Arbitration procedures shall be governed by A.D.R. Rule 3.

2. Attorneys wishing to serve as arbitrators in the Marion Circuit or Superior Court shall file written notice with the Marion Superior Court Administrator indicating a desire to serve as an arbitrator for cases in Marion County.

3. Arbitrators shall be entered into the Court's computer system. If the parties are unable to agree on a single arbitrator, the Court will generate a list of three arbitrators by random selection through the computer. In the event that the parties wish to have a panel of three arbitrators, each party shall select one arbitrator and the Court will name the third arbitrator by random selection through the computer.

4. After the arbitrator selection process has been completed, the party which initiated the litigation shall submit a proposed order appointing the person or persons selected by the parties to act as arbitrator or arbitrators in the case.

5. Unless otherwise agreed to by the parties, arbitrators shall be paid at the rate of One Hundred Dollars (\$ 100.00) per hour in accordance with A.D.R. Rule 3.3.

### **C. Mandatory Mediation**

1. Civil Jury Trials. All cases where a timely demand for jury trial is made, mediation pursuant to A.D.R. Rule 2 and subsection A herein is mandatory. Mediation is to be completed sixty (60) days prior to trial, unless the mediation referral is vacated for good cause shown. Objections to mediation may be made within fifteen (15) days of the completion of the case management conference required by Rule 16.1(A).

2. Post-Decree Domestic Litigation. Parties must submit post-decree child related issues to mediation prior to presenting such issues to the Court for hearing, unless this rule is waived for good cause shown.

3. Pro Bono Mediation Services. All mediators maintained on the Court's approved Civil and Domestic Mediation list shall, upon request from any Judge of this Court, serve as a pro bono mediator for at least one (1) case per calendar year.

Any litigant affected by this mandatory mediation order may qualify for pro bono mediation services upon good cause shown, pursuant to criteria established by the Presiding Judges of the Court.

### **D. General Provisions**

1. These rules are designed to clarify and supplement the Rules for Alternative Dispute Resolution promulgated by the Indiana Supreme Court on January 1, 1992. The rules promulgated by the Indiana Supreme Court shall be followed in every way by the parties and shall govern the various forms of Alternative Dispute Resolution stated therein.

2. The failure to comply any with any Court Order regarding Alternative Dispute Resolution may result in appropriate sanctions being levied by the Court.

## **RULE 8.1 PREPARATION OF PLEADINGS, MOTIONS AND OTHER PAPERS**

All pleadings, motions and other papers shall be prepared in accordance with the provisions of the Indiana Rules of Procedure. For the purpose of uniformity and convenience, the following requirements shall also be observed.

- A. Production.** Pleadings, motions and other papers may be either printed or typewritten on white opaque paper of at least sixteen (16) pound weight, eight and one-half (8-1/2) inches wide and eleven (11) inches in length. All copies shall likewise be on white paper of sufficient strength and durability to resist normal wear and tear. If typewritten, the lines shall be double spaced, except for quotations, which shall be indented and single spaced. Script type shall not be used.
- B. Caption.** Every pleading shall contain a caption setting forth the name of the Court, the Division and Room Number, the title of the action and the file number.

- C. **Titles.** Titles on all pleadings shall delineate each topic included in the pleading e.g. where a pleading contains an Answer, a Motion to Strike or Dismiss, or a Jury Request each shall be set forth in the title.
- D. **Margins and Binding.** Margins shall be one-half (1/2) inch. Binding or stapling shall be at the top and at no other place. Covers or backing shall not be used.
- E. **Signature.** All pleadings and motions shall contain the signature of the attorney in written and typed or printed form, the name of the law firm if a member of a firm, the attorney=s address, identification number, telephone number, fax number, and the designation as to the party for whom he appears. The following form is recommended:

John Doe  
Attorney Identification Number  
DOE, ROWE, and SMITH  
Suite 35 Blackacre Building  
Indianapolis, Indiana 46204  
939-3000 Fax: 233-1744  
Attorney for Defendant  
(Name)

## **RULE 8.2 FILING OF PLEADINGS, MOTIONS AND OTHER PAPERS**

- A. **Room Clerk.** All pleadings, petitions and motions are filed with the Clerk designated by the Court at any time during office hours established by the Clerk and the Court. All orders submitted to the Court shall be in sufficient number and shall be accompanied by postage paid envelopes addressed to each party or counsel of record.
- B. **Facsimile.** Facsimile filing is permitted in the Marion Circuit and Marion Superior Court. If the filing requires immediate attention of the Judge, it shall be so indicated in bold letters in an accompanying transmittal memorandum. Facsimile filing must be through the Clerk=s central reception number using assigned user identification number and password. Legibility of documents and timeliness of filing is the responsibility of the sender.

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Any document filed by facsimile which seeks an Order of Court must be accompanied by two (2) copies of a proposed order, if necessary. The orders must contain the requesting party or attorney=s facsimile number in the distribution list. If the Court adopts the proposed order, the Clerk shall return same to sender by facsimile. Upon receipt of the Court=s Order, sender shall serve it upon all parties or counsel of record by facsimile or First Class U.S. Mail and file an acknowledgment of receipt and Certification of Service via facsimile to the Clerk=s central reception number on the form below.

Cause No.

Acknowledgment and Certificate of Service

I acknowledge receipt of the following order or request from the Court: \_\_\_\_\_ and certify that I have served a copy of the Court=s Order or request upon the following parties or counsel of record: \_\_\_\_\_.

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\_\_\_\_\_ Via Fax or \_\_\_\_\_ Via First Class, U.S. Mail

Attorney=s Name  
Attorney Number  
Firm Name  
Address  
Telephone Number

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**C. Counsel to Furnish Pleadings to Special Judge.** When a Special Judge who is not a Marion County Judge is selected, all parties or attorneys shall furnish such Judge with copies of all filings prior to the qualification of such Special Judge. Thereafter, copies of all filings shall be delivered in person, by mail or by facsimile to the office of the Special Judge with certificate of forwarding same made a part of the filing.

**D. Number.** Counsel shall file with the court an original and one copy of all briefs, and memoranda of law filed in support of a motion.

**E.<sup>2</sup> Appearance Form.** Pursuant to Trial Rule 3.1(A), an appearance form shall be filed by the initiating party at the time an action commenced. If the action is appropriate for filing and disposition in Marion Superior Court, Environmental Division, per Order of the Executive Committee of the Marion Superior Court, then the initiating party shall indicate such on the appearance form.

**RULE 11.1 SIGNING AND VERIFICATION OF PLEADINGS, MOTIONS AND OTHER PAPERS-SERVICE ON OPPOSING PARTY**

In all cases where any pleading or other document is required to be served upon opposing counsel, proof of such service may be made either by:

- (1) a certificate of service signed by counsel of record for the serving party and *the certificate shall specify by name and address all counsel upon whom the pleading or document was served or*
- (2) an acknowledgment of service signed by the party served or counsel of record.

**RULE 16.1 CASE MANAGEMENT**

- A. Case Management Conference.** Plaintiff shall arrange a meeting of all parties within ninety (90) days after the filing of a complaint for the following purposes:
1. *List of Witnesses.* Exchange lists of witnesses known to have knowledge of the facts supporting the pleadings. The parties shall thereafter be under a continuing obligation to advise opposing parties of other witnesses as they become known.

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<sup>2</sup> Adopted May 21, 2001



2. *Documents.* Exchange all documents which are contemplated to be used in support of the pleadings. Documents later shown to have been reasonably available to a party and not exchanged may be subject to exclusion at time of trial.
3. *Other Evidence.* Exchange any other evidence reasonably available to obviate the filing of unnecessary discovery motions.
4. *Settlement.* Discuss settlement of the action.
5. *Discovery Schedule.* Agree upon a preliminary schedule for all discovery.
6. *Complicated Case.* Discuss whether the action is sufficiently complicated so that additional conferences may be required.

**B. Case Management Order.** Within ten (10) days after meeting those attending are to file a joint Case Management Order setting forth:

1. the likelihood of mediation and settlement;
2. a detailed schedule of discovery for each party;
3. a limitation on the time to join additional parties and to amend the pleadings;
4. a limitation on the time to file all pre-trial motions;
5. any other matters which the parties want to address;
6. a preliminary estimate of the time required for trial; and
7. the date by which the parties expect the matter to be ready for trial.

## **RULE 16.2 PRE-TRIAL CONFERENCE**

**A. Pre-trial Conference Mandatory.** A pre-trial conference shall be held in every civil jury action. Each party shall be represented at the pre-trial conference by the attorney who will conduct the trial.

**B. Pre-trial Stipulation Must Be Filed.** Counsel for the plaintiff shall see that a pre-trial stipulation is drawn, executed by counsel for all parties, and filed with the Court no later than five (5) days prior to the pre-trial conference. The pre-trial stipulation shall contain the following statements in separate numbered paragraphs as indicated:

1. the nature of the action.
2. the basis of jurisdiction.
3. the pleadings raising the issues.
4. a list of all motions or other matters requiring action by the Court.
5. a concise statement of stipulated facts, with reservations, if any.
6. a statement of issues of fact which remain to be litigated at trial.

7. a concise statement of issues of law on which there is agreement.
  8. a concise statement of issues of law which remain for determination by the Court.
  9. each party=s numbered list of trial exhibits, other than impeachment exhibits, with objections, if any, to each exhibit. The list of exhibits shall be on separate schedules attached to the stipulation.
  10. each party=s numbered list of trial witnesses, with their addresses. Impeachment witnesses need not be listed. Expert witnesses shall be so designated.
  11. estimated trial time.
- C. Unilateral Filing of Pre-trial Stipulation Where Counsel Do Not Agree.** If for any reason the pre-trial stipulation is not executed by all counsel, each counsel shall file a proposed pre-trial stipulation not later than five (5) days prior to the pre-trial conference with a statement why no agreement was reached.
- D. Memoranda of Law.** Counsel shall file memoranda treating any unusual questions of law involved in the trial no later than five (5) days prior to the pre-trial conference.
- E. Proposed Jury Instructions.** Seven (7) days prior to trial, counsel shall submit proposed jury instructions to the Court, with copies to all other counsel. Instructions covering matters occurring at the trial which could not reasonably be anticipated may be substituted at the conclusion of the testimony. Each instruction shall be accompanied by citations of authority.
- F. Objections to Proposed Jury Instructions.** Written objections to proposed jury instructions shall be submitted to the Court on or before the first day of trial. Written objections shall be numbered and shall specify distinctly the objectionable matter in the proposed instruction. Each objection shall be accompanied by citations of authority.

### **RULE 16.3 ALTERNATIVE DISPUTE RESOLUTION**

#### **A. Mediation Procedures.**

1. Case selection shall be governed by A.D.R. Rule 2.2.
2. Mediator selection shall be governed by A.D.R. Rule 2.4. Mediators approved by the Indiana Supreme Court Commission for Continuing Legal Education shall be entered into the Courts computer system. If the parties are unable to select a mediator by agreement pursuant to A.D.R. Rule 2.4, the Court will generate a list of three mediators by random selection through the computer.
3. The parties shall have ten (10) days to strike from the panel of mediators named by the Court. The party that initiated the cause of action shall strike first. If the parties fail to strike within ten (10) days, the Court shall select a mediator. Upon selection of the mediator, counsel for the party that initiated the litigation shall submit a proposed order appointing the mediator selected in the case.
4. During the entire mediation process, the lawsuit shall remain on the Court's docket.
- 5.<sup>3</sup> Absent an agreement by the parties or unless otherwise ordered by the Court, the fees and expenses associated with the mediation shall be shared equally by the parties unless good cause can be

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<sup>3</sup> Amended by the General Term July 12, 2004

shown by a party why an equal division of the fees should not be ordered. In the case of team mediation, the fee is to be split between the mediators as the co-mediators are to be treated as a unit.

6. The mediator and the parties shall make a good faith effort to complete the mediation process within sixty (60) days from the date of the Order to engage in mediation. In the event that the mediation process is not completed within this time, the mediator shall file a status report with the Court setting forth the projected date of completion.

7. After the conclusion of the mediation, the mediator will have fifteen (15) days to prepare and send his or her bill to the parties. The parties shall have fifteen (15) days thereafter to pay the mediator. If the mediator's bill is not paid within thirty (30) days after the close of mediation, the mediator may file a bill with the Court and it shall be reduced to judgment unless objected to by one of the parties within ten (10) days after the filing of the bill with the Court.

## **B. Arbitration Procedures.**

1. Arbitration procedures shall be governed by A.D.R. Rule 3.

2. Attorneys wishing to serve as arbitrators in the Marion Circuit or Superior Court shall file written notice with the Marion Superior Court Administrator indicating a desire to serve as an arbitrator for cases in Marion County.

3. Arbitrators shall be entered into the Court's computer system. If the parties are unable to agree on a single arbitrator, the Court will generate a list of three arbitrators by random selection through the computer. In the event that the parties wish to have a panel of three arbitrators, each party shall select one arbitrator and the Court will name the third arbitrator by random selection through the computer.

4. After the arbitrator selection process has been completed, the party which initiated the litigation shall submit a proposed order appointing the person or persons selected by the parties to act as arbitrator or arbitrators in the case.

5. Unless otherwise agreed to by the parties, arbitrators shall be paid at the rate of One Hundred dollars (\$100.00) per hour in accordance with A.D.R. Rule 3.3.

## **C. Mandatory Mediation.**

1. *Civil Jury Trials.* All cases where a timely demand for jury trial is made, mediation pursuant to A.D.R. Rule 2 is mandatory. Mediation is to be completed sixty (60) days prior to trial, unless the mediation referral is vacated for good cause shown. Objections to mediation may be made within fifteen (15) days of the completion of the case management conference required by Rule 16.1(A).

2. *Post-Decree Domestic Litigation.* Parties must submit post-decree child related issues to mediation prior to presenting such issues to the Court for hearing, unless this rule is waived for good cause shown.

3. *Pro Bono Mediation Services.* All mediators maintained on the Court's approved Civil and Domestic Mediation list shall, upon request from any Judge of this Court, serve as a pro bono mediator for at least one (1) case per calendar year. Any litigant affected by this mandatory mediation order may qualify for pro bono mediation services upon good cause shown, pursuant to criteria established by the Presiding Judges of the Court.

## **D. General Provisions.**

1. These rules are designed to clarify and supplement the Rules for Alternative Dispute Resolution promulgated by the Indiana Supreme Court on January 1, 1992. The rules promulgated by the Indiana Supreme Court shall be followed in every way by the parties and shall govern the various forms of Alternative Dispute Resolution stated therein.

2. The failure to comply any with any Court Order regarding Alternative Dispute Resolution may result in appropriate sanctions being levied by the Court.

### **RULE 32.1 VIDEO TAPE DEPOSITIONS**

All video tape depositions filed with the Court shall be accompanied by a transcript of the testimony.

### **RULE 33.1 INTERROGATORIES**

- A. Number Limited.** Interrogatories shall be limited to a total of twenty-five (25) including subparts and shall be used solely for the purpose of discovery and shall not be used as a substitute for the taking of a deposition. For good cause shown and upon leave of Court additional interrogatories may be propounded.
- B. Answers and Objections.** Answers or objections to interrogatories under Rule TR 31 or 33 shall set forth in full the interrogatories being answered or objected to immediately preceding the answer or objection.
- C. Duplicated Forms.** No duplicated forms containing interrogatories shall be filed or served upon a party unless all interrogatories on such forms are consecutively numbered and applicable to the cause in which the same are filed and served.

### **RULE 39.1 SETTING CASES FOR TRIAL**

- A. Setting Cases for Trial.** Litigants desiring their cause of action to be set for trial shall file a written Praecipe for Trial which indicates whether a jury or court trial is requested. No trial date will be set unless a Case Management Order pursuant to Rule 16.1(B) has been filed. The Praecipe shall state the number of days needed to try the case.
- B. Notice in Dissolution and Paternity Matters.** In all dissolution or paternity matters, the Moving party or their counsel shall give notice of the time and place of the hearing or trial by subpoena, notice of hearing or letter, served upon the adverse party at least seven (7) days prior to the trial date and file a copy of said notice with the Court on or prior to the trial date.

### **RULE 53.5 MOTIONS FOR CONTINUANCE**

Motions for Continuance are discouraged. Neither side is entitled to an automatic continuance as a matter of right.

- A. Motion.** A Motion for Continuance, unless made during the hearing of the cause, shall be in writing, state whether opposing counsel objects to the motion and whether prior continuances have been requested by the moving party. The Court may require any written Motion for Continuance to be signed by the party requesting the continuance.

- B. Time for Filing.** Motions for Continuance must be filed as soon after the cause for continuance or delay is discovered by the party seeking same, and no later than seven (7) days before the date assigned for trial, unless the reason therefor is shown by affidavit to have occurred within the seven (7) day period.
- C. Title of Motion.** A Motion for Continuance, whether it is plaintiff=s or defendant=s motion, shall denominate whether it is the First (1st), Second (2nd), Third (3rd), etc. Motion for Continuance filed by plaintiff or defendant.
- D. Dispositive Motions.** The filing of a dispositive motion shall not constitute good cause for a Motion for Continuance of a trial if the time requirements governing such motion will not allow for the resolution of the motion prior to the date of trial.

#### **RULE 55.1 AFFIDAVIT OF DEBT/ATTORNEY FEES IN DEFAULT JUDGMENTS**

On all default judgments relating to commercial cases plaintiff or his counsel must submit an affidavit of debt and an affidavit in support of attorney fees requested by counsel. The affidavit for attorney fees shall set forth the number of hours spent on the case and the hourly charge.

#### **RULE 58.1 DUTIES OF ATTORNEYS ON ENTRIES OF JUDGMENTS**

- A. Attorneys to Prepare Documents Requiring Court=s Signature.** It shall be the duty of attorneys to prepare decrees of all final judgments and of such interlocutory and other orders as may be required by the Court, including Pre-Trial Orders, Findings of Fact and Conclusions of Law.
- B. Decrees and Entries Prepared by One Attorney to Be Submitted to Other Attorneys Interested in Cause.** Where there are several attorneys interested in a decree, order, entry or judgment to be entered in a cause and one or more of them desires such document entered, he or they, shall submit such document to the other attorneys who may be interested in the cause, and obtain an endorsement thereon of AInspected≡, provided that this rule shall not apply when the attorneys of all parties are in court when the judgment or decree is proffered.
- C. Obligation to Keep Themselves Informed of Case Status.** Counsel and parties to a suit should keep themselves informed of all steps taken in all matters pending before the Court, and are bound by the Court=s actions, including but not limited to rulings, notice of trial date settings, and current position of cases on jury trial calendar, all without special or additional oral or written notice by the Court.
- D. Duty of Attorney to State Time Required for Hearing.** It is the duty of counsel to determine the amount of time required by both sides for the hearing. No hearing will be scheduled until such time is stated, and it will be limited to the time requested.

#### **RULE 59.1 SERVICE UPON JUDICIAL OFFICERS**

In addition to serving the judge with a separate copy of motion to correct error pursuant to Ind.Trial Rule 59(C), parties filing motion to correct errors shall also serve the Magistrate or Commissioner with a copy of the motion to correct error if a Magistrate or Commissioner recommended and signed the final judgment or appealable final order at issue. Non-compliance with this Rule shall not be grounds for forfeiture of any post-trial, post-judgment or appellate rights.

## **RULE 63.1 WHEN OTHER JUDGES TO PRESIDE**

Whenever the Judge who presides in the Marion Circuit or Superior Court is absent or cannot, for any reason, hear any cause pending in such court, or issue any emergency orders in connection herewith, any other Judge of such Marion Circuit or Superior Court may preside in that court.

## **RULE 74.1 EXHIBITS**

All models, diagrams, documents, depositions, or material placed in the custody of the Court Reporter as exhibits shall be removed by the parties offering them in evidence, except as otherwise ordered by the Court, four (4) months after the case is decided unless an appeal is taken. At the time of removal, a detailed receipt shall be given to the Court Reporter and filed with the cause. If not removed after four (4) months, the Court Reporter may dispose of them without notice.

## **RULE 76.1 TRANSFER OR CONSOLIDATION OF CASES**

No case filed in the Circuit Court or the Marion Superior Court, Civil Division, may be transferred or consolidated to another room or court except upon written motion accompanied by written order for the signature of the forwarding Court. The order shall not be approved and signed by the forwarding Judge unless such order is consented to in writing by the Judge of the receiving Court.

## **<sup>4</sup>RULE 76.2 TRANSFER OF CASES ASSIGNED TO THE MARION COUNTY FAMILY COURT PROJECT**

This Rule applies only in the following situations: (1) a child who is the subject of a Child in Need of Services or a Delinquency case is also the subject of a divorce, paternity or guardianship case in which there is a pending or continuing custody, visitation and/or child support order, and (2) these multiple cases have been assigned to the Marion County Family Court Project. The purpose of the rule is to allow the transfer of cases involving the same child or children to the same judge for a temporary period of time. The rule will help to ensure that multiple cases involving the same child will have consistent orders regarding custody, visitation, care, and child support, and multiple hearings and re-hearings will not occur before different judges regarding the same issues.

When consistent with the best interest of the child, the lead Family Court Project Judge may issue an order transferring any of the cases specifically assigned to the Marion County Family Court Project to the Marion Circuit Court or to any Marion Superior Court, Juvenile or Civil Division. The Order of Family Court Assignment shall include the Order of Case Transfer and the order shall state to what court and division the cases have been transferred. The transferred cases will not be consolidated. The court receiving the cases shall have jurisdiction in those cases. Each case will retain its own original docket number and separate Chronological Case Summary.

The lead Family Court Judge shall transfer back to the court of origin any case or cases when the lead judge determines that the purpose of the family court assignment has been completed. The supervising judge shall issue an order "Closing the Family Court Assignment and Transferring Case/s back to the Court of Origin."

A transfer for family court purposes shall not constitute a transfer for purposes of the Quarterly Status Report.

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<sup>4</sup> Rule 76.1 Adopted and effective July 3, 2003

## **RULE 79.1 INITIAL REQUEST FOR CHANGE OF JUDGE**

- A. Naming of Panel.** Within two (2) days of deciding that a special judge must be appointed under this section, the Court shall submit a panel of three (3) eligible persons to the parties for striking.
- B.<sup>5</sup> Eligible Persons.** All judges of the Marion Circuit and Superior Court Civil Division are eligible persons under this rule except as follows: the judge of the Marion Circuit Court shall not be named on panels for domestic relations cases; the judges of the Juvenile Division and the Environmental Division shall not be named on any panels; and the judge of the Probate Division shall be named only on panels for domestic relations and juvenile cases.
- C. Striking from Panel.** The parties shall have fourteen (14) days to strike from the panel in accordance with Ind.Trial Rule 79(F).
- D. Failure to Strike.** In the event the parties shall fail to strike in a timely fashion, the Clerk of the Marion Circuit and Superior Courts shall strike from the panel for the non moving party.

## **RULE 79.2<sup>6</sup> APPOINTMENT BY CLERK**

In the event a special judge does not accept the case under Ind.Trial Rule 79(D)(E) or (F) or a judge disqualifies and recuses under T.R. 79(C), the appointment of an eligible special judge as set out in Rule 79.1(B) shall be made by the Clerk of the Marion Circuit and Superior Courts by a random process approved by the judges.

## **RULE 79.3 ACCEPTANCE**

A person selected to serve as special judge under this rule must accept jurisdiction in the case unless the judge so selected is disqualified pursuant to the *Code of Judicial Conduct*, ineligible for service under this Rule, or excused from service by the Indiana Supreme Court. The order of appointment under the Rule shall constitute acceptance. An oath or additional evidence of acceptance of jurisdiction is not required.

## **RULE 79.4<sup>7</sup> CERTIFICATION TO THE SUPREME COURT**

The Clerk of the Marion Circuit and Superior Courts shall certify to the Indiana Supreme Court all cases in which no judge is eligible to serve as special judge or the particular circumstances of a case warrants selection of a special judge by the Supreme Court under Ind.Trial Rule 79(H)(3).

## **RULE 81.1 MARION COUNTY SMALL CLAIMS COURT CASES**

- A. Issues.** A cause of action which comes to the Marion Superior Court from the Small Claims Courts of Marion County for either jury trial or appeal shall be repled in its entirety commencing with the plaintiff below filing a new Complaint in compliance with the Indiana Rules of Trial Procedure. The new Complaint shall be filed within twenty (20) days of the date the cause is docketed and filed with the Marion Superior Court. Failure to comply with this Rule shall result in the Court imposing sanctions which may include dismissal or default where appropriate.
- B. Procedure and Evidence.** Any pleadings, motions or other procedural matters which are filed after the filing of the Complaint in the Marion Superior Court will be governed by the Indiana

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<sup>5</sup> Amended May 21, 2001

<sup>6</sup> Rule 79.2 amended February 22, 1999

<sup>7</sup> Rule 79.4 adopted February 22, 1999

Rules of Trial Procedure and the Marion Superior Court Rules. Evidentiary questions will be ruled on in the same manner as any other cases originally filed in the Marion Superior Court.

**C. Appeals From Marion County Small Claims Courts.** The following rules shall govern all appeals from the Marion County Small Claims Courts to the Marion Superior Court.

(1) Any party may appeal from the judgment of the Marion County Small Claims Court to the Marion Superior Court, within sixty (60) days from its entry; and when there are two (2) or more plaintiffs or defendants, one or more of such plaintiffs or defendants may appeal without joining the others in such appeal or plaintiff may add new parties at the time he repleads his Complaint in accordance with the Indiana Rules of Trial Procedure.

(2) The Small Claims Court Judge shall certify a completed transcript of all the proceedings had before said Judge and transmit the same, together with all other papers in the cause, to the Marion County Clerk, within twenty (20) days.

(3) Appeals may be authorized by the Marion Superior Court after the expiration of Sixty (60) days, when the party seeking the appeal has been prevented from taking the same by circumstances not under his control.

## **RULE 81.2 MARION COUNTY LAW LIBRARY**

**A. Taking Books From the Library.** No book, periodical, manuscript or other paper or equipment belonging to the Marion County Law Library, located in the City-County Building, Indianapolis, Indiana, shall be removed therefrom by any person other than a judge of any of the courts located in the City-County Building, without the written consent of one of said judges. Said consent shall be addressed to the Librarian of the Marion County Law Library. Any book or periodical removed from the Library, as aforesaid, may be used only in the City-County Building and must not be taken therefrom.

**B. Sign-Out Procedure.** Any person having authority to remove law books from the Library, as aforesaid, shall sign out for same, giving borrower=s name, date of withdrawal and place where book will be used. The borrower shall be held personally responsible for the return of said books to the Marion County Law Library on the same day of their withdrawal. In case the Library is closed said books shall be left with the bailiff of the court where the books were used.

## **RULE 81.3 JOINT SESSION OF CIRCUIT AND MARION SUPERIOR COURTS**

The Judges of the Marion Circuit and Superior Courts may meet in joint session to consider matters of mutual interest.

## **RULE 84.1 EFFECTIVE DATE**

The effective date of these rules shall be March 1, 1999.